

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

BERT DALMAYER, *et al.*,

Plaintiffs,

CASE NO. 08-CV-12784

v.

DISTRICT JUDGE THOMAS LUDINGTON
MAGISTRATE JUDGE CHARLES BINDER

STATE OF MICHIGAN, *et al.*,

Defendants.

**ORDER SETTING ASIDE CLERK'S ENTRIES OF DEFAULT
AS TO DEFENDANT HURON UNDERCOVER NARCOTICS TEAM (Dkt. 44)
AND DEFENDANT MICHIGAN SUPREME COURT (Dkt. 45)**

**AND DENYING AS MOOT
PLAINTIFFS' MOTIONS FOR DEFAULT JUDGMENT
AS TO THESE DEFENDANTS (Dkt. 52 & 53)**

This *pro se* prisoner civil rights case was referred to the undersigned magistrate judge for pretrial proceedings on July 15, 2008. The *pro se* complaint, which was filed on June 30, 2008, asserts claims by 22 plaintiffs against 97 defendants.

On October 28, 2008, process was served on Defendants Huron Undercover Narcotics Team ("HUNT") and Michigan Supreme Court ("MSC"); their answers were thus due on November 17, 2008. (Dkt. 8 & 15.) On November 10, 2008, the Office of the Michigan Attorney General filed a motion seeking "an order extending the time in which the Governor *and other State defendants* must respond to Plaintiffs' complaint." (Dkt. 12 at 3 (emphasis added).) The manner in which the motion was docketed, however, did not clearly articulate that the motion was filed on behalf of more than one defendant. Therefore, when the Plaintiffs subsequently requested a Clerk's entry of default against Defendants HUNT and MSC (Dkt. 33 & 34), the defaults were entered. (Dkt.

44 & 45.) On the same day the defaults were entered, the Attorney General's office filed notices clarifying that the original motion seeking an extension of time (Dkt. 12) applied to all State of Michigan defendants including HUNT and MSC. (Dkt. 48 & 50.)

Rule 55(c) of the Federal Rules of Civil Procedure states that “[t]he court may set aside an entry of default for good cause[.]” FED. R. CIV. P. 55(c). In this case, Defendants HUNT and MSC were two of the “State defendants” that timely filed a motion to extend time to answer, and they have therefore shown good cause under Rule 55(c). Accordingly, **IT IS ORDERED** that the defaults entered against Defendant HUNT (Dkt. 44) and Defendant MSC (Dkt. 45) are **HEREBY SET ASIDE**.

Furthermore, because the defaults have been set aside, **IT IS FURTHER ORDERED** that the Motions for Default Judgment filed by Plaintiffs against these two defendants (Dkt. 52 & 53) are **DENIED AS MOOT**.

Review of this Order is governed by 28 U.S.C. § 636(b)(1), FED. R. CIV. P. 72, and E.D. Mich. LR 72.1(d).

Dated: December 3, 2008

s/ Charles E. Binder
CHARLES E. BINDER
United States Magistrate Judge

CERTIFICATION

I hereby certify that this Order was electronically filed this date, electronically served on James Ferrell, C. Adam Purnell, James Cotant, John Gillooly, G. Gus Morris, Gretchen Olsen and Peter Worden; and served by first class mail on the following individuals at the addresses listed:

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Date: December 3, 2008

By s/Jean L. Broucek
Case Manager to Magistrate Judge Binder